

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2268 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DHIRUBHAI PUNJABHAI CHAVADA

Versus

DIST COMMANDANT

Appearance:

None for Petitioner

Ms Sejal Mandavia for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/05/96

ORAL JUDGEMENT

1 The matter was called in the first round, second round and lastly in the third round but none appeared for the petitioner. Perused the record and heard Ms Sejal

Mandavia. It is not in dispute that the petitioner was appointed on temporary basis as part time Assistant Clerk. In para 4 of the application the petitioner has come up with the case that under the order dated 11.4.1986 the petitioner was discharged from the services with effect from 15.4.1986. The petitioner has not produced the copy of the said order but the respondents have not disputed this fact. On 2.4.1988 this special civil application has come up for admission after issuing notice to the respondents. Earlier to it, on 24.4.1986 this Court issued notice to the respondents and further ordered for maintaining the status quo as on that date. On 2.4.1988 Rule was issued but interim relief was refused. The Court has passed a speaking order and has observed that the matter was being admitted on account of rather unhappy way of drafting of the discharge order otherwise, there is no substance in the petition. As stated earlier, the discharge order has not been produced on record. The petitioner was appointed as a part time Assistant Clerk. It was a fixed time appointment. Even if it is considered with some artificial breaks were given and he was continued for some time, he does not acquire any right to continue on the post. The temporary government servant does not become permanent unless he acquires that capacity by force of any rule or is declared as permanent servant. The case of the petitioner is on much less pedestal because he was only a part time appointee. Even when legally a temporary government servant does not become permanent unless he acquires that capacity by force of any rule or is declared as such, the petitioner cannot claim any right to continue on the post. The respondents have not committed any illegality whatsoever in the discharge of the petitioner from service who was only a temporary part time employee. None of the legal or fundamental rights of the petitioner is infringed. The petitioner has not acquired any right to the post and if that is the position then the order of discharge cannot be set aside by this Court.

In the result, this special civil application fails and the same is dismissed. Rule is discharged with no order as to costs.
